

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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William Howard Rutland III, #09030325,

2009 NOV -5 P 3: 28

Plaintiff,

Civil Action No. 8:09-1993-SB


v.

Sargent Rosemary Sanders, BCSO,

ORDER

Defendant.

This matter is before the Court upon the Plaintiff's pro se complaint, filed pursuant to 42 U.S.C. § 1983. The record contains a report and recommendation of a United States Magistrate Judge ("R&R"), which was made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d). In the R&R, which was filed on September 14, 2009, Magistrate Judge Bruce Howe Hendricks recommends that the Court dismiss the Plaintiff's complaint without prejudice (1) as duplicative and frivolous and (2) for failure to state a claim. The Plaintiff filed objections to the R&R, and the matter is ripe for review.

 In the R&R, the Magistrate Judge first noted that the Plaintiff has filed at least thirteen cases in this Court this year. At least two of the cases deal with the same facts and name Rosemary Sanders as a Defendant. Rutland v. Dewitt, et al., Civil Action No. 8:09-13-SB (D.S.C. 2009); Rutland v. Dewitt, et al., Civil Action No. 8:09-1717-SB (D.S.C. 2009). Moreover, both of these cases were served upon the Defendants, and both of them are currently pending before this Court. Based on these facts, the Magistrate Judge recommended that the Court dismiss the Plaintiff's complaint as duplicative and frivolous.

Next, the Magistrate Judge found that the Plaintiff failed to allege facts sufficient to state a constitutional violation pursuant to 42 U.S.C. § 1983. Specifically, the Magistrate

Judge found that the Plaintiff's bare and conclusory allegations (regarding the conditions of his confinement, the denial of written rules and canteen items, and the denial of access to the courts and due process of law) lacked specific factual content and were insufficient to state a constitutional violation. Accordingly, the Magistrate Judge recommended that the Court dismiss the Plaintiff's complaint for failure to state a claim.

In his one-page objections, the Plaintiff admits that he has numerous cases pending before this Court involving the same facts and the same Defendants. By way of explanation, he merely asserts that the alleged violations keep occurring, so he keeps suing "over and over." The Court finds these objections to be without merit.

In addition to filing written objections, the Plaintiff filed a motion to amend his complaint on September 30, 2009.¹ In his proposed amended complaint, the Plaintiff raises (and perhaps rehashes) claims similar to those presented in his previous complaint in this case and in pleadings from other pending cases. In addition, the Plaintiff attaches affidavits in support of his claim that Defendant Sanders failed to provide him with a charge receipt in connection with his mailing activities.

After a review of this case and the other pending cases filed by the Plaintiff, the Court agrees with the Magistrate Judge that this case should be dismissed as duplicative of *at least* two other cases currently pending before this Court (Civil Action Nos. 8:09-13-SB and 8:09-1717-SB). Moreover, with respect to the Plaintiff's motion to amend, the Court notes that the Plaintiff has filed the same pleadings in at least one other case that is currently pending before the Court, and therefore, his motion suffers from the same

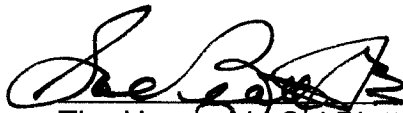
¹ The Plaintiff also filed the same pleading in Civil Action No. 8:09-2164.

redundancy problems as the whole of this case. As noted by the Magistrate Judge, the Court has "the right to take notice of its own files and records and it ha[s] no duty to grind the same corn a second time." Aloe Creme Labs., Inc. v. Francine Co., 425 F.2d 1295, 1296 (5th Cir. 1970). Therefore, the Court agrees with the Magistrate Judge that this case should be dismissed as duplicative.

Based on the foregoing, it is hereby

ORDERED that the Plaintiff's complaint is dismissed without prejudice and without issuance and service of process. Any other pending motions are hereby deemed moot.

AND IT IS SO ORDERED.


The Honorable Spi Blatt, Jr.
Senior United States District Judge

November 5, 2009
Charleston, South Carolina

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